

Article 3.

Emergency Telephone Service.

**§ 62A-40. Definitions.**

The following definitions apply in this Article.

- (1) 911 Board. – The 911 Board established in G.S. 62A-41.
- (2) 911 Fund. – The North Carolina 911 Fund established in G.S. 62A-43.
- (3) 911 State Plan. – A document prepared, maintained, and updated by the 911 Board that provides a comprehensive plan for communicating 911 call information across networks and among PSAPs, addresses all aspects of the State's 911 system, and describes the allowable uses of revenue in the 911 Fund.
- (4) 911 system. – An emergency telephone system that does all of the following:
  - a. Enables the user of a voice communications service connection to reach a PSAP by dialing the digits 911.
  - b. Provides enhanced 911 service.
- (5) Call taking. – The act of processing a call for emergency assistance up to the point that the call is ready for dispatch, including the use of equipment, call classification, location of a caller, and determination of the appropriate response level for emergency responders.
- (6) Commercial Mobile Radio Service (CMRS). – Defined in 47 C.F.R. § 20.3.
- (7) CMRS connection. – Each mobile handset telephone number assigned to a CMRS subscriber with a place of primary use in North Carolina.
- (8) CMRS provider. – An entity, whether facilities-based or nonfacilities-based, that is licensed by the Federal Communications Commission to provide CMRS or that resells CMRS within North Carolina.
- (9) Enhanced 911 service. – Directing a 911 call to an appropriate PSAP by selective routing based on the geographical location from which the call originated and providing information defining the approximate geographic location and the telephone number of a 911 caller, in accordance with the FCC Order.
- (10) Exchange access facility. – The access from a subscriber's premises to the telephone system of a service supplier. The term includes service supplier provided access lines, private branch exchange trunks, and centrex network access registers, as defined by applicable tariffs approved by the North Carolina Utilities Commission. The term does not include service supplier owned and operated telephone pay station lines, Wide Area Telecommunications Service (WATS), Foreign Exchange (FX), or incoming only lines.
- (11) FCC Order. – The Order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on December 1, 1997, and any consent decrees, rules, and regulations adopted by the Federal Communications Commission pursuant to the Order.
- (12) GIS mapping. – Computerized geographical information that can be used to assist in locating a person who calls emergency assistance, including street centerlines, ortho photography, and oblique imaging.
- (13) Interconnected VoIP service. – Defined in 47 C.F.R. § 9.3.
- (14) Local exchange carrier. – An entity that is authorized to provide telephone exchange service or exchange access in North Carolina.
- (15) Prepaid wireless telephone service. – A right that meets all of the following requirements:

- a. Authorizes the purchase of CMRS, either exclusively or in conjunction with other services.
  - b. Must be paid for in advance.
  - c. Is sold in units or dollars whose number or dollar value declines with use and is known on a continuous basis.
- (16) Primary PSAP. – The first point of reception of a 911 call by a public safety answering point.
- (17) Proprietary information. – Subscriber lists, technology descriptions, technical information, or trade secrets that are developed, produced, or received internally by a voice communications service provider or by a voice communications service provider's employees, directors, officers, or agents.
- (18) Public safety answering point (PSAP). – The public safety agency that receives an incoming 911 call and dispatches appropriate public safety agencies to respond to the call.
- (19) Service supplier. – An entity that provides exchange telephone service to a telephone subscriber.
- (20) Subscriber. – A person who purchases a voice communications service and is able to receive it or use it periodically over time.
- (21) Voice communications service. – Any of the following:
  - a. The transmission, conveyance, or routing of real-time, two-way voice communications to a point or between or among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline, wireless, or other medium or method, regardless of the protocol used.
  - b. The ability to receive and terminate voice calls to and from the public switched telephone network.
  - c. Interconnected VoIP service.
- (22) Voice communications service connection. – Each telephone number assigned to a residential or commercial subscriber by a voice communications service provider, without regard to technology deployed.
- (23) Voice communications service provider. – An entity that provides voice communications service to a subscriber.
- (24) VoIP provider. – An entity that provides interconnected VoIP service. (2007-383, s. 1(a).)

**§ 62A-41. 911 Board.**

(a) Membership. – The 911 Board is established in the Office of Information Technology Services. The 911 Board consists of 17 members as follows:

- (1) Four members appointed by the Governor as follows:
  - a. An individual who represents municipalities appointed upon the recommendation of the North Carolina League of Municipalities.
  - b. An individual who represents counties appointed upon the recommendation of the North Carolina Association of County Commissioners.
  - c. An individual who represents a VoIP provider.
  - d. An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).
- (2) Six members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives as follows:
  - a. An individual who is a sheriff.

- b. Two individuals who represent CMRS providers operating in North Carolina.
    - c. An individual who represents the North Carolina chapter of the Association of Public Safety Communications Officials (APCO).
    - d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 50,000 access lines.
  - (3) Six members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate as follows:
    - a. An individual who is a chief of police.
    - b. Two individuals who represent CMRS providers operating in North Carolina.
    - c. An individual who represents the North Carolina chapter of the National Emergency Number Association (NENA).
    - d. Two individuals who represent local exchange carriers operating in North Carolina, one of whom represents a local exchange carrier with less than 200,000 access lines.
  - (4) The State Chief Information Officer or the State Chief Information Officer's designee, who serves as the chair.
- (b) Term. – A member's term is four years. Members remain in office until their successors are appointed and qualified. Vacancies are filled in the same manner as the original appointment. The Governor may remove any member for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d).
- (c) Meetings. – Members of the 911 Board serve without compensation. Members receive per diem, subsistence, and travel allowances at the rate established in G.S. 138-5. A quorum of the 911 Board is nine members. The 911 Board meets upon the call of the chair.
- (d) Public Servants. – The members of the 911 Board are public servants under G.S. 138A-3 and are subject to the provisions of Chapter 138A of the General Statutes. (2007-383, s. 1(a).)

**§ 62A-42. Powers and duties of the 911 Board.**

- (a) Duties. – The 911 Board has the following powers and duties:
  - (1) To develop the 911 State Plan. In developing and updating the plan, the 911 Board must monitor trends in voice communications service technology and in enhanced 911 service technology, investigate and incorporate GIS mapping and other resources into the plan, and formulate strategies for the efficient and effective delivery of enhanced 911 service.
  - (2) To administer the 911 Fund and the monthly 911 service charge authorized by G.S. 62A-43.
  - (3) To distribute revenue in the 911 Fund to CMRS providers and PSAPs in accordance with this Article and advise CMRS providers and PSAPs of the requirements for receiving a distribution from the 911 Fund.
  - (4) To establish policies and procedures to fund advisory services and training for PSAPs and to provide funds in accordance with these policies and procedures.
  - (5) To investigate the revenues and expenditures associated with the operation of a PSAP to ensure compliance with restrictions on the use of amounts distributed from the 911 Fund.
  - (6) To make and enter into contracts and agreements necessary or incidental to the performance of its powers and duties under this Article and to use

revenue available to the 911 Board under G.S. 62A-44 for administrative expenses to pay its obligations under the contracts and agreements.

- (7) To accept gifts, grants, or other money for the 911 Fund.
- (8) To undertake its duties in a manner that is competitively and technologically neutral as to all voice communications service providers.
- (9) To adopt rules to implement this Article. This authority does not include the regulation of any enhanced 911 service, such as the establishment of technical standards.
- (10) To take other necessary and proper action to implement the provisions of this Article.

(b) Prohibition. – In no event shall the 911 Board or any other State agency lease, construct, operate, or own a communications network for the purpose of providing 911 service. (2007-383, s. 1(a).)

#### **§ 62A-43. Service charge for 911 service.**

(a) Charge Imposed. – A monthly 911 service charge is imposed on each active voice communications service connection that is capable of accessing the 911 system. The service charge is seventy cents (70¢) or a lower amount set by the 911 Board under subsection (d) of this section. The service charge is payable by the subscriber to the voice communications service provider. The provider may list the service charge separately from other charges on the bill. Partial payments made by a subscriber are applied first to the amount the subscriber owes the provider for the voice communications service.

(b) Prepaid Wireless. – A voice communications service provider of prepaid wireless telephone service must collect and remit to the 911 Board the monthly service charge imposed upon prepaid wireless telephone subscribers in the State under one of the following methods:

- (1) Collecting the service charge from each active prepaid wireless telephone service subscriber whose account balance is equal to or greater than the amount of the service charge.
- (2) Dividing the provider's total earned prepaid wireless telephone service revenue received for the month from each active prepaid wireless telephone service subscriber by fifty dollars (\$50.00) and multiplying the quotient by the amount of the service charge.

(c) Remittance to 911 Board. – A voice communications service provider must remit the service charges collected by it under this section to the 911 Board. The provider must remit the collected service charges by the end of the calendar month following the month the provider received the charges from its subscribers. A provider may deduct and retain from the service charges it receives from its subscribers and remits to the 911 Board an administrative allowance equal to the greater of one percent (1%) of the amount of service charges remitted or fifty dollars (\$50.00) a month.

(d) Adjustment of Charge. – The 911 Board must monitor the revenues generated by the service charge. If the 911 Board determines that the rate produces revenue in excess of the amount needed, the 911 Board must reduce the rate. The reduced rate must ensure full cost recovery for voice communications service providers and for primary PSAPs over a reasonable period of time. A change in the amount of the rate becomes effective only on July 1 of an even-numbered year. The 911 Board must notify providers of a change in the rate at least 90 days before the change becomes effective.

(e) Collection. – A voice communications service provider has no obligation to take any legal action to enforce the collection of the service charge billed to a subscriber. The 911 Board may initiate a collection action, and reasonable costs and attorneys' fees associated with that collection action may be assessed against the subscriber. At the request of the 911 Board, but no more than annually, a voice communications service provider must report to the 911

Board the amount of the provider's uncollected service charges. The 911 Board may request, to the extent permitted by federal privacy laws, the name, address, and telephone number of a subscriber who refuses to pay the 911 service charge.

(f) Restriction. – A local government may not impose a service charge or other fee on a subscriber to support the 911 system. (2007-383, s. 1(a).)

#### **§ 62A-44. 911 Fund.**

(a) Fund. – The 911 Fund is created as an interest-bearing special revenue fund within the State treasury. The 911 Board administers the Fund. The 911 Board must credit to the 911 Fund all revenues remitted to it from the service charge imposed by G.S. 62A-43 on voice communications service connections in the State. Revenue in the Fund may only be used as provided in this Article.

(b) Allocation of Revenues. – The 911 Board may deduct and retain for its administrative expenses up to one percent (1%) of the total service charges remitted to it under G.S. 62A-43 for deposit in the 911 Fund. The remaining revenues remitted to the 911 Board for deposit in the 911 Fund are allocated as follows:

- (1) A percentage of the funds remitted by CMRS providers to the 911 Fund are allocated for reimbursements to CMRS providers pursuant to G.S. 62A-45.
- (2) A percentage of the funds remitted by CMRS providers and all funds remitted by all other voice communications service providers are allocated for monthly distributions to primary PSAPs pursuant to G.S. 62A-46 and grants to PSAPs pursuant to G.S. 62A-47.
- (3) The percentage of the funds remitted by CMRS providers allocated to CMRS providers and PSAPs shall be set by the 911 Board and may be adjusted by the 911 Board as necessary to ensure full cost recovery for CMRS providers and, to the extent there are excess funds, for distributions to primary PSAPs.

(c) Report. – In February of each odd-numbered year, the 911 Board must report to the Joint Legislative Commission on Governmental Operations, the Revenue Laws Study Committee, and the Joint Legislative Utility Review Committee. The report must contain complete information regarding receipts and expenditures of all funds received by the 911 Board during the period covered by the report, the status of the 911 system in North Carolina at the time of the report, and the results of any investigations by the Board of PSAPs that have been completed during the period covered by the report.

(d) Nature of Revenue. – The General Assembly finds that distributions of revenue from the 911 Fund are not State expenditures for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold revenue in the 911 Fund. (2007-383, s. 1(a); 2008-134, s. 1(a).)

#### **§ 62A-45. Fund distribution to CMRS providers.**

(a) Distribution. – CMRS providers are eligible for reimbursement from the 911 Fund for the actual costs incurred by the CMRS providers in complying with the requirements of enhanced 911 service. Costs of complying include costs incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the recurring and nonrecurring costs of providing the service. To obtain reimbursement, a CMRS provider must comply with all of the following:

- (1) Invoices must be sworn.
- (2) All costs and expenses must be commercially reasonable.
- (3) All invoices for reimbursement must be related to compliance with the requirements of enhanced 911 service.

- (4) Prior approval must be obtained from the 911 Board for all invoices for payment of costs that exceed the lesser of:
  - a. One hundred percent (100%) of the eligible costs allowed under this section.
  - b. One hundred twenty-five percent (125%) of the service charges remitted to the 911 Board by the CMRS provider.

(b) **Payment Carryforward.** – If the total amount of invoices submitted to the 911 Board and approved for payment in a month exceeds the amount available from the 911 Fund for reimbursements to CMRS providers, the amount payable to each CMRS provider is reduced proportionately so that the amount paid does not exceed the amount available for payment. The balance of the payment is deferred to the following month. A deferred payment accrues interest at a rate equal to the rate earned by the 911 Fund until it is paid.

(c) **Grant Reallocation.** – If the amount of reimbursements to CMRS providers approved by the 911 Board for a fiscal year is less than the amount of funds allocated for reimbursements to CMRS providers for that fiscal year, the 911 Board may reallocate part or all of the excess amount to the PSAP Grant Account established under G.S. 62A-47. The 911 Board may reallocate funds under this subsection only once each calendar year and may do so only within the three-month period that follows the end of the fiscal year. If the 911 Board reallocates more than three million dollars (\$3,000,000) to the PSAP Grant Account in a calendar year, it must consider reducing the amount of the service charge in G.S. 62A-44 to reflect more accurately the underlying costs of providing 911 system services.

The 911 Board must make the following findings before it reallocates funds to the PSAP Grant Account:

- (1) There is a critical need for additional funding for PSAPs in rural or high-cost areas to ensure that enhanced 911 service is deployed throughout the State.
- (2) The reallocation will not impair cost recovery by CMRS providers.
- (3) The reallocation will not result in the insolvency of the 911 Fund.  
(2007-383, s. 1(a).)

#### **§ 62A-46. Fund distribution to PSAPs.**

(a) **Monthly Distribution.** – The 911 Board must make monthly distributions to primary PSAPs from the amount allocated to the 911 Fund for PSAPs. The amount to be distributed to each primary PSAP is the sum of the following:

- (1) **The PSAP's base amount.** – The PSAP's base amount is the amount the PSAP received in the fiscal year ending June 30, 2007, and deposited in the Emergency Telephone System Fund of its local governing entity, as reported to the State Treasurer's Office, Local Government Division.
- (2) **The PSAP's per capita amount.** – The PSAP's per capita amount is the PSAP's per capita share of the amount designated by the Board under subsection (b) of this section for the per capita distribution. The 911 Board must use the most recent population estimates certified by the State Budget Officer in making the per capita distribution under this subdivision. A PSAP is not eligible for a distribution under this subdivision unless it provides enhanced 911 service.

(b) **Percentage Designations.** – The 911 Board must determine how revenue that is allocated to the 911 Fund for distribution to primary PSAPs and is not needed to make the base amount distribution required by subdivision (a)(1) of this section is to be used. The 911 Board must designate a percentage of the remaining funds to be distributed to primary PSAPs on a per capita basis and a percentage to be allocated to the PSAP Grant Account established in G.S. 62A-47. If the 911 Board does not designate an amount to be allocated to the PSAP Grant

Account, the 911 Board must distribute all of the remaining funds on a per capita basis. The 911 Board may not change the percentage designation more than once each fiscal year.

(c) Use of Funds. – A PSAP that receives a distribution from the 911 Fund may not use the amount received to pay for the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring or compensating telecommunicators, or the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles. Distributions received by a PSAP may be used only to pay for the following:

- (1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software, and database provisioning, addressing, and nonrecurring costs of establishing a 911 system.
- (2) Expenditures for in-State training of 911 personnel regarding the maintenance and operation of the 911 system. Allowable training expenses include the cost of transportation, lodging, instructors, certifications, improvement programs, quality assurance training, and training associated with call taking, and emergency medical, fire, or law enforcement procedures. Training outside the State is not an eligible expenditure unless the training is unavailable in the State or the PSAP documents that the training costs are less if received out-of-state. Training specific to the receipt of 911 calls is allowed only for intake and related call taking quality assurance and improvement. Instructor certification costs and course required prerequisites, including physicals, psychological exams, and drug testing, are not allowable expenditures.
- (3) Charges associated with the service supplier's 911 service and other service supplier recurring charges. The PSAP providing 911 service is responsible to the voice communications service provider for all 911 installation, service, equipment, operation, and maintenance charges owed to the voice communications service provider. A PSAP may contract with a voice communications service provider on terms agreed to by the PSAP and the provider.

(d) Local Fund. – The fiscal officer of a PSAP to whom a distribution is made under this section must deposit the funds in a special revenue fund, as defined in G.S. 159-26(b)(2), designated as the Emergency Telephone System Fund. The fiscal officer may invest money in the Fund in the same manner that other money of the local government may be invested. Income earned from the invested money in the Emergency Telephone System Fund must be credited to the Fund. Revenue deposited into the Fund must be used only as permitted in this section.

(e) Compliance. – A PSAP, or the governing entity of a PSAP, must comply with all of the following in order to receive a distribution under this section:

- (1) A county or municipality that has one or more PSAPs must submit in writing to the 911 Board information that identifies the PSAPs in the manner required by the FCC Order.
- (2) A participating PSAP must annually submit to the 911 Board a copy of its governing agency's proposed or approved budget detailing the revenues and expenditures associated with the operation of the PSAP. The PSAP budget must identify revenues and expenditures for eligible expense reimbursements as provided in this Article and rules adopted by the 911 Board.
- (3) A PSAP must be included in its governing entity's annual audit required under the Local Government Budget and Fiscal Control Act. The Local

Government Commission must provide a copy of each audit of a local government entity with a participating PSAP to the 911 Board.

- (4) A PSAP must comply with all requests by the 911 Board for financial information related to the operation of the PSAP.

(f) Application to Cherokees. – The Eastern Band of Cherokee Indians is an eligible PSAP. The Tribal Council of the Eastern Band is the local governing entity of the Eastern Band for purposes of this section. The Tribal Council must give the 911 Board information adequate to determine the Eastern Band's base amount. The 911 Board must use the most recent federal census estimate of the population living on the Qualla Boundary to determine the per capita distribution amount. (2007-383, s. 1(a); 2008-134, ss. 1(b), (c).)

#### **§ 62A-47. PSAP Grant Account.**

(a) Account Established. – A PSAP Grant Account is established within the 911 Fund for the purpose of making grants to PSAPs in rural and other high-cost areas. The Account consists of revenue allocated by the 911 Board under G.S. 62A-45(c) and G.S. 62A-46.

(b) Application. – A PSAP may apply to the 911 Board for a grant from the PSAP Grant Account. An application must be submitted in the manner prescribed by the 911 Board. The 911 Board may approve a grant application and enter into a grant agreement with a PSAP if it determines all of the following:

- (1) The costs estimated in the application are reasonable and have been or will be incurred for the purpose of promoting a cost-effective and efficient 911 system.
- (2) The expenses to be incurred by the applicant are consistent with the 911 State Plan.
- (3) There are sufficient funds available in the fiscal year in which the grant funds will be distributed.
- (4) The costs are authorized PSAP costs under G.S. 62A-46(c).

(c) Agreement. – A grant agreement between the 911 Board and a PSAP must include the purpose of the grant, the time frame for implementing the project or program funded by the grant, the amount of the grant, and a provision for repaying grant funds if the PSAP fails to comply with any of the terms of the grant. The amount of the grant may vary among grantees. If the grant is intended to promote the deployment of enhanced 911 service in a rural area of the State, the grant agreement must specify how the funds will assist with this goal. The 911 Board must publish one or more notices each fiscal year advertising the availability of grants from the PSAP Grant Account and detailing the application process, including the deadline for submitting applications, any required documents specifying costs, either incurred or anticipated, and evidence demonstrating the need for the grant. Any grant funds awarded to PSAPs under this section are in addition to any funds reimbursed under G.S. 62A-46. (2007-383, s. 1(a).)

#### **§ 62A-48. Recovery of unauthorized use of funds.**

The 911 Board must give written notice of violation to any voice communications service provider or PSAP found by the 911 Board to be using monies from the 911 Fund for purposes not authorized by this Article. Upon receipt of notice, the voice communications service provider or PSAP must cease making any unauthorized expenditures. The voice communications service provider or PSAP may petition the 911 Board for a hearing on the question of whether the expenditures were unauthorized, and the 911 Board must grant the request within a reasonable period of time. If, after the hearing, the 911 Board concludes the expenditures were in fact unauthorized, the 911 Board may require the voice communications service provider or PSAP to refund the monies improperly spent within 90 days. Money received under this section must be credited to the 911 Fund. If a voice communications service



provider or PSAP does not cease making unauthorized expenditures or refuses to refund improperly spent money, the 911 Board must suspend funding to the provider or PSAP until corrective action is taken. (2007-383, s. 1(a).)

**§ 62A-49. Conditions for providing enhanced 911 service.**

In accordance with the FCC Order, no CMRS provider is required to provide enhanced 911 service until all of the following conditions are met:

- (1) The provider receives a request for the service from the administrator of a PSAP that is capable of receiving and utilizing the data elements associated with the service.
- (2) Funds for reimbursement of the CMRS provider's costs are available pursuant to G.S. 62A-45.
- (3) The local exchange carrier is able to support the requirements of enhanced 911 service. (2007-383, s. 1(a).)

**§ 62A-50. Audit.**

The State Auditor may perform audits of the 911 Board pursuant to Article 5A of Chapter 147 of the General Statutes to ensure that funds in the 911 Fund are being managed in accordance with the provisions of this Article. The State Auditor must perform an audit of the 911 Board at least every two years. The 911 Board must reimburse the State Auditor for the cost of an audit of the 911 Board. (2007-383, s. 1(a).)

**§ 62A-51. Subscriber records.**

Each CMRS provider must provide its 10,000 number groups to a PSAP upon request. This information remains the property of the disclosing CMRS provider and must be used only in providing emergency response services to 911 calls. CMRS voice communications service provider connection information obtained by PSAP personnel for public safety purposes is not public information under Chapter 132 of the General Statutes. No person may disclose or use, for any purpose other than the 911 system, information contained in the database of the telephone network portion of a 911 system. (2007-383, s. 1(a).)

**§ 62A-52. Proprietary information.**

All proprietary information submitted to the 911 Board or the State Auditor is confidential. Proprietary information submitted pursuant to this Article is not subject to disclosure under Chapter 132 of the General Statutes, and it may not be released to any person other than to the submitting CMRS voice communications service provider, the 911 Board, and the State Auditor without the express permission of the submitting CMRS voice communications service provider. Proprietary information is considered a trade secret under the Trade Secrets Protection Act, Article 24 of Chapter 66 of the General Statutes. General information collected by the 911 Board or the State Auditor may be released or published only in aggregate amounts that do not identify or allow identification of numbers of subscribers or revenues attributable to an individual CMRS voice communications service provider. (2007-383, s. 1(a).)

**§ 62A-53. Limitation of liability.**

Except in cases of wanton or willful misconduct, a voice communications service provider and its employees, directors, officers, and agents are not liable for any damages in a civil action resulting from death or injury to any person or from damage to property incurred by any person in connection with developing, adopting, implementing, maintaining, or operating the 911 system or in complying with emergency-related information requests from State or local government officials. This section does not apply to actions arising out of the operation or ownership of a motor vehicle. (2007-383, s. 1(a).)

§ 62A-54: Reserved for future codification purposes.

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§ 62A-57: Reserved for future codification purposes.

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